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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,598	06/23/2005	Werner Braun	AZ 45 2	9718
30/996 7590 09/22/2008 ROBERT W. BECKER & ASSOCIATES 707 HIGHWAY 333 SUITE B TIJERAS, NM 87059-7507				
EXAMINER				
HWU, DAVIS D				
ART UNIT		PAPER NUMBER		
3752				
MAIL DATE		DELIVERY MODE		
09/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/540,598

**Applicant(s)**

BRAUN ET AL.

**Examiner**

Davis D. Hwu

**Art Unit**

3752

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-19 is/are pending in the application.
- 4a) Of the above claim(s) 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10, 11 and 13-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Response to Amendment***

1. Applicant's amendment of August 5, 2008 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

3. Claims 10, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schaeffer.

Schaeffer shows a spray fitting comprising: a main pipe 48 formed with two channels (Figure 4); a plurality of distributing pipes 22a-d and 24a-d extending from two sides of the main pipe essentially in one plane; and a plurality of spray nozzles with each distributing pipe, and a pump 14 as recited. The device is fully capable of being installed in a tower to treat a gas flow with a liquid.

***Claim Rejections - 35 USC § 103***

4. Claims 11, 13-16, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaeffer.

Schaeffer also discloses a sheet in the main pipe (part separating the channels in Figure 4) but does not disclose supply of the treatment liquid at opposite ends of the channels, however, such a modification would have been a matter of design choice since such a modification would have involved a mere duplication of the essential working parts of a device to supply liquid. Claims 13-16 are also matters of design choice since they involve mere changes in the placement of objects and the sizes of components which are recognized as being within the level of ordinary skill in the art.

The device can be used in a tower and in which case, a tower would be included as part of an entire system comprising the device and the tower. Regarding claim 19, providing at least one pump for each of the channels would be a matter of design choice since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

### ***Response to Arguments***

5. Applicant's arguments filed June 26, 2008 have been fully considered but they are not persuasive. The device of Schaeffer can be installed by any means since the claims of the instant invention does not recite a particular installation or support structure. The independent spraying (line 1 of page 6 of the Arguments) does not appear to have been recited in claim 10. The election/restriction requirement stands because the unity of invention practice does not preclude an election/restriction requirement from being applied to the U.S case.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis D. Hwu whose telephone number is 571-272-4904. The examiner can normally be reached on 8:00-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on 571-272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

/Davis D Hwu/  
Primary Examiner, Art Unit 3752